IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL **APPELLATE JURISDICTION**

WRIT PETITION NO.2285 OF 2002

1. Gopal Narayan Haryan
2. Baban Sitaram Haryan
3. Sakharam Babaji Haryan
4. Vasu alias Vasudev Gunaji Haryan
5. Dattaram Sitaram Haryan
6. Madhukar Sitaram Haryan
7. Laxman Sitaram Haryan
8. Laxman Ragho Haryan

all residing at and Post Kelvali,
Taluka Rajapur, Dist-Ratnagiri. ... Petitioners.

Verus.

1. The Special Land Acquisition Officer(No.1), Ratnagiri
2. The Collector, Ratnagiri
3. The State of Maharashtra
4. Mr.Laxman Sitaram Shengale
5. Mr.Keshav Ramchandra Chavan
6. Smt.Shubhangi Ramesh Thosar
7. Mr.Suresh Laxman Kelvalkar
8. Mr.Motiram Gangaram Tambe
9. Mr.Deu Gopal Haryan
10. Mr.Shantaram Hiraji Varendekar
11. Mr.Vijay V.Natekar
12. Mr.Rajaram Gangaram Lotankar

(all respondent nos. 4 to 12 are residing at Post Kelvali, Taluka-Rajapur, District-Ratnagiri) ... Respondents.

Mr. S.G.Karandikar for the petitioners.

Mr.C.R. Sonawane, AGP for respondent Nos. 1 to 3.

Mr.S.G. Surana for respondnet Nos. 4 to 12.

CORAM: R.M.S.KHANDEPARKAR &
V.M.KANADE,JJ.
DATE : SEPTEMBER 21, 2005.

-ORAL JUDGEMENT (PER R.M.S.KHANDEPARKAR,J.)

1. The petitioners challenge the acquisition proceedings initiated pursuant to the notification dated 21.4.2001 issued under Section 4 of the Land Acquisition Act,1894, hereinafter called as ‘‘the said Act’’ and the same was published in Government Gazette dated 10th June 2001 in relation to the property bearing Survey Nos. 44 and 45, sub-division nos. 1 to 4, situated in village Kelavali, Taluka-Rajapur, District-Ratnagiri.

2. The challenge to the acquisition proceedings is on the ground that the acquisition is not for the public purpose and in any case there is already a road available at the site connecting the area in question to public road and therefore, the proposed acquisition is merely with an intention to harass the petitioners on account of their rivalry with the Sarpanch of the village Panchayat at the relevant time.

3. Upon hearing the learned advocates for the parties and on perusal of record, it discloses that the proposed acquisition is for the purpose of construction of a road for the area occupied by the people belonging to backward

class as well as to have proper access to the temple in the village. The records also disclose as has been revealed from the affidavit filed by the respondents as well as copies of the materials placed on record, that the road would facilitate the occupants of Shengalewadi as well as Siddarthwadi and had apparently reveals the public purpose involved behind the proposed acquisition of the area belonging to the petitioners for the purposes of construction of a road. Being so, there is absolutely no substance in the challenge regarding absence of public purpose,for the purpose of acquisition of area.

5. It is sought to be contended on behalf of the petitioners that only the area of land belonging to the petitioners is sought to be acquired, without acquiring the lands belonging to others, even though, such acquisition would be necessary for the purpose of having complete road for connecting two public roads in the area. The contention is devoid of substance for more than one reason. Acquisition is not for the purpose of connecting two roads as such, but it is essentially for the purpose of availing proper access to the area occupied by the people belonging to backward class. Besides, the other area which may be required for

completion of a road has already been made available to the Government for the purpose of construction of road. The consent has already been given for construction of

proposed road by the owners of the other lands, and only because the petitioners' refused to give such consent, the proceedings under the Land Acquisition Act are found necessary. The copies of land acquisition reference produced on record regarding factual situation in loco apparently disclose, that the road connecting both the wards have already been completed and only on account of delay in acquisition proceedings in relation to the area of the petitioners the completion of construction of the road has been hampered. There is also categorical statement on behalf of the respondents in the affidavit to the effect that, it is not correct that there is a road which connects Shengalewadi to Siddharthwadi, but it is a footway, and there is no road which can connect these wadis directly to the main road. There is neither denial nor any dispute raised by the petitioners in this regard though they have filed rejoinder. This factual situation, which is not in dispute, coupled with the fact that already there existed a footway, reveals the use of the area in question for access by the villagers and apparently discloses the public purpose which would be

satisfied on construction of the road as also it clearly establish the need for construction of the road at the proposed place. Apparently, therefore, the proposed scheme cannot be said to lack bonafide on the part of the respondents.

6. The petitioners are also sought to dispute the fact that other occupants of the area have not given consent for construction of the road. In case, there is any dispute, certainly this would not be a proper forum to adjudicate the same. Once the respondents have established that the others have granted consent for construction of the road through their land and it is only because of the petitioner’s adamant attitude that the respondents are not being able to construct the road, construction of the road has been delayed and there has been no cogent material placed on record in order to show lack of bonafide on the part of the respondents or that there is any reluctance on the part of other occupants to allow their land for construction of such road, it is to be held that the petitioners have failed to establish their case, either regarding absence of public purpose or absence of bonafide on the part of respondents in identifying the area through the petitioners’ property to

be suitable land for the purpose of construction of the road.

6. For reasons stated above, therefore, we do not find any case having been made out by the petitioners in this petition, the petition, therefore, fails.

7. The rule is discharged with no order as to costs.

(R.M.S.KHANDEPARKAR,J)

(V.M.KANADE,J)